

**REMARKS**

In accordance with the foregoing, claim 24 has been amended to reflect antecedent support, claim 27 has been amended to depend from claim 26, and claims 1-48 are pending and under consideration. No new matter is presented in this Amendment.

**REJECTIONS UNDER 35 U.S.C. §101:**

On page 2 of the Office Action, the Examiner rejects claims 1-19 under 35 U.S.C. §101 as directed to non-statutory subject matter. The rejection is respectfully traversed and reconsideration is requested.

The Examiner asserts that the language in claims 1-19 do not provide any concrete, useful and tangible results. It is submitted that the Examiner has not met the prima facie burden of proof for a §101 rejection. In general, in order to reject a claim, there needs to be sufficient evidence and arguments of record in order to meet a prima facie burden as to put the applicant on notice of the reasons for the claim's deficiency. Such evidence is further required in order for meaningful review to be provided under the Administrative Procedures Act, 5 U.S.C. §706. Thus, as noted In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992), "[t]he prima facie case is a procedural tool of patent examination, allocating the burdens of going forward as between examiner and applicant."

In the context of a rejection under 35 U.S.C. §101, in order to provide a prima facie case to reject a claim, the Examiner must review the claims and provide any explanation of the claim deficiencies to the applicant. Failure to provide such an explanation in light of the claim language, or a mere summary statement without support from the claims, renders the rejection improper since the record is unclear as to the basis of the rejection and does not afford the applicant an opportunity to respond. C.f. In re Zurko, 258 F.3d 1379, 1385-1386, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001) (the "assessment of basic knowledge and common sense was not based on any evidence in the record and, therefore, lacks substantial evidence support.... To hold otherwise would render the process of appellate review for substantial evidence on the record a meaningless exercise."), In re Lee, 277 F.3d 1338, 1342, 61 USPQ2d 1430, 1432-33 (Fed. Cir. 2002) ("For judicial review to be meaningfully achieved within these strictures, the agency tribunal must present a full and reasoned explanation of its decision.")

This duty is reinforced by the Interim Guidelines for Examiner of Patent Application for

Patent Subject Matter Eligibility, p. 16 (Official Gazette November 22, 2005) and MPEP 2106(IV)(B), which states that "[t]he burden is on the USPTO to set forth a prima facie case of unpatentability. Therefore if the examiner determines it is more likely than not that the claimed subject matter falls outside of the statutory categories, the examiner must provide an explanation." As such, as acknowledged by United States Patent and Trademark Office examination procedures, in order to meet this prima facie standard, the record must contain more than a mere repetition of the legal test for compliance with 35 U.S.C. §101, but an explanation for the claim's failure to meet this standard based upon the claim language. Thus, in order to provide sufficient explanation to support a rejection of a claim under 35 U.S.C. §101, there needs to be more than a conclusory statement.

On page 2 of the Office Action mailed August 23, 2007, the Examiner concludes, without applying the legal test or further analysis, that "the language in claims 1-19 [do] not provide any concrete, useful and tangible results." However, the Examiner does not refer to the claims as presented. Instead, the Examiner has merely stated a conclusion without providing the necessary underlying explanation in light of the claims as is needed to meet the prima facie burden for a 35 U.S.C. §101 rejection. As such, it is respectfully requested that the Examiner withdraw the rejection or issue a corrected non-Final Office Action that meets the prima facie burden as to put the applicant on notice of the reasons for the claims' deficiencies.

Nonetheless, it is noted that claims 1-19 are directed to a method, which is a category of statutory subject matter under 35 U.S.C. §101. Furthermore, the method of claims 1-19 teaches an allocating of an area in a buffer, and a loading of files in the allocated area. Therefore, such a method provides concrete, useful, and tangible results (loading a file into an allocated area of a buffer), which is within the scope of patentable subject matter as defined in 35 U.S.C. §101.

#### **REJECTIONS UNDER 35 U.S.C. §102:**

Claims 1-10 and 12-48 are rejected under 35 U.S.C. §102(b) as being anticipated by Bauer et al. (U.S. Patent 7,137,072), hereinafter referred to as "Bauer." The rejection is traversed and reconsideration is respectfully requested.

Regarding the rejection of independent claim 1, it is noted that claim 1 recites, "A method for **managing an ENAV buffer**..., the method comprising... **allocating** at least a portion of the ENAV buffer to be an updateable markup area provided for ENAV files **on the basis of ENAV**

**buffer configuration information.”** In contrast, Bauer teaches a method of **managing a data file** (column 1, lines 15-20) and storing unsaved modifications to the data file in a buffer (column 14, lines 53-61). First, Applicants note that managing a buffer is patentably distinct from managing data files. Specifically, while the present claim discloses a designating of an area of the buffer for storage of files, Bauer describes a method of storing files that is unrelated to a management of the buffer (i.e., an allocation of areas in the buffer). Second, Bauer does not disclose any operation or process of allocating in the buffer. In particular, Bauer does not disclose an allocation of a **specific area** of the buffer (i.e., an updateable markup area) for storing the modifications. Similarly, Bauer does not disclose an allocation of an area of the buffer based on buffer configuration information. Rather, Bauer only teaches a configuring of the buffer to store modifications to an unsaved data file (column 14, lines 53-61). There is no suggestion as to how the modification buffer is configured. Further, such configuration is not suggested to entail an area allocation based on buffer configuration information. Therefore, the Applicants respectfully submit that Bauer fails to disclose, implicitly or explicitly, a managing of an ENAV buffer whereby a portion of the ENAV buffer is allocated for ENAV files on the basis of ENAV buffer configuration information, as recited in claim 1.

Regarding the rejection of claim 2, it is noted that this claim depends from claim 1 and is, therefore, allowable for at least the reasons set forth above. Furthermore, it is noted that claim 2 recites “allocating the updateable markup area according to **memory size information.**” The Examiner cites Bauer (column 17, line 2) as a teaching of such an allocation. However, Bauer (column 17, line 2) regards displaying a modification list in a subframe, as opposed to allocating an area of a buffer. Specifically, the “size specification” of Bauer is in reference to a size of the modification list and the subframe, and not the size of a memory. As noted above, Bauer does not disclose an allocation of an area in a buffer, or that the buffer size is otherwise allocated using such size specification information. Therefore, the Applicants respectfully submit that Bauer fails to disclose, implicitly or explicitly, an allocating of an area of a buffer according to memory size information, as recited in claim 2.

Regarding the rejection of claim 3, it is noted that this claim depends from claim 1 and is, therefore, allowable for at least the reasons set forth above. Furthermore, it is noted that claim 3 recites “allocating the updateable markup area according to **memory names and sizes information.**” The Examiner cites Bauer (column 15, lines 7-12) as a teaching of such an allocation. However, Bauer (column 15, lines 7-12) regards listing identifiers of modified files in

a modification list. The identifiers, however, are not used for an allocation of an area of a buffer. As noted above, Bauer does not disclose an allocation of an area in a buffer. Therefore, the Applicants respectfully submit that Bauer fails to disclose, implicitly or explicitly, an allocating of an area of a buffer according to memory names and sizes information, as recited in claim 3.

Regarding the rejection of claim 4, it is noted that this claim depends from claim 1 and is, therefore, allowable for at least the reasons set forth above. Furthermore, it is noted that while claim 4 discloses a loading of files **to be buffered** with reference to file names and locations, Bauer discloses an identifying of files that **are already buffered** with reference to the files' identifiers on a modification list (column 15, lines 7-12).

Regarding the rejection of claims 5-6, it is noted that these claims depend from claim 1 and are, therefore, allowable for at least the reasons set forth above.

Regarding the rejection of claim 7, it is noted that this claim depends from claim 1 and is, therefore, allowable for at least the reasons set forth above. Furthermore, it is noted that while claim 7 discloses a reading of ENAV buffer configuration information with reference to a startup file and loading information file, Bauer (column 14, lines 44-53 and column 13, lines 15-35) cited by the Examiner discloses an unrelated concept (i.e., an identifying of whether a file has unsaved modifications). As such, Bauer does not suggest reading the ENAV buffer configuration information from a file, as does the invention recited in claim 7.

Regarding the rejection of claims 8-9, it is noted that these claims depend from claim 7 and are, therefore, allowable for at least the reasons set forth above.

Regarding the rejection of claim 10, it is noted that this claim depends from claim 1 and is, therefore, allowable for at least the reasons set forth above. Furthermore, it is noted that Bauer does not disclose, implicitly or explicitly, a displaying of an error message, as recited in claim 10.

Regarding the rejection of claims 20-21, it is noted that these claims depend from claim 1 and are, therefore, allowable for at least the reasons set forth above.

Regarding the rejection of claim 22, it is noted that this claim depends from claim 21 and is, therefore, allowable for at least the reasons set forth above. Furthermore, it is noted that while claim 22 discloses a loading of a file determined to be an updateable markup file to the updateable markup area of the buffer and a loading of a file determined to not be an updateable

markup file to another area of the buffer, Bauer discloses an unrelated concept (i.e., determining of whether a file has unsaved modifications, as opposed to whether a file is updateable). As such, Bauer does not suggest loading an updateable file in one area of a buffer and a non-updateable file in another area of the buffer, as does the invention recited in claim 22.

Regarding the rejection of claim 23, it is noted that this claim depends from claim 22 and is, therefore, allowable for at least the reasons set forth above.

Regarding the rejection of independent claim 24, it is noted that claim 24 recites **“allocating the buffer** to include an updateable markup area reserved for an updateable type of interactive file and another area for another type of interactive file.” In contrast, Bauer teaches a method of managing data files (column 1, lines 15-20) and storing unsaved modifications to a data file in a buffer (column 14, lines 53-61). That is, Bauer does not disclose any operation or process of allocating in the buffer. In particular, Bauer does not disclose an allocation of a specific area of the buffer (i.e., an updateable markup area) for storing the modifications. Furthermore, it is noted that an updateable interactive file is different from a file with unsaved modifications (i.e., an updateable interactive file may or may not have unsaved modifications). The Examiner cites Bauer (column 20, lines 14-21 and column 17, lines 63-66). However, Bauer (column 20, lines 14-21 and column 17, lines 63-66) disclose concepts unrelated to the allocation of areas in the buffer (column 20, lines 14-21 refers to identifying a file on the modification list by the file’s name, and column 17 simply states that any type of file in addition to a text file may be used in the invention; for example, an audio file with unsaved changes will also be listed in the modification list). Further, as similarly noted above in relation to claim 4, Bauer relates to already buffered files, whereas claim 24 further recites loading an interactive file in the buffer prior to reproduction. Also, as similarly noted above in relation to claim 22, Bauer relates to loading unsaved modifications, whereas claim 24 further recites loading an updateable file or a non-updateable file. Therefore, the Applicants respectfully submit that Bauer fails to disclose, implicitly or explicitly, an allocating an area of a buffer, as recited in claim 24.

Regarding the rejection of claim 25, it is noted that this claim depends from claim 24 and is, therefore, allowable for at least the reasons set forth above. Furthermore, it is noted that claim 25 recites “determining a size of the updateable markup area.” The Examiner cites Bauer (column 17, lines 1-10) as a teaching of such a determination. However, Bauer (column 17, lines 1-10) regards displaying a modification list in a subframe, as opposed to determining the size of an area of a buffer. Specifically, the “size specification” of Bauer is in reference to a size

of the modification list and the subframe, and not the size of an area of a buffer. As noted above, Bauer does not disclose an allocation of an area in a buffer or that buffer allocation information is read from a storage medium. Therefore, the Applicants respectfully submit that Bauer fails to disclose, implicitly or explicitly, a determining of a size of the updateable markup area, as recited in claim 25.

Regarding the rejection of claims 26, 28, and 29, it is noted that these claims depend from claim 25 and are, therefore, allowable for at least the reasons set forth above.

Regarding the rejection of claim 27, it is noted that this claim depends from claim 26 and is, therefore, allowable for at least the reasons set forth above.

Regarding the rejection of claim 30, it is noted that this claim depends from claim 29 and is, therefore, allowable for at least the reasons set forth above.

Regarding the rejection of claim 31, it is noted that this claim depends from claim 30 and is, therefore, allowable for at least the reasons set forth above.

Regarding the rejection of claim 32, it is noted that this claim depends from claim 24 and is, therefore, allowable for at least the reasons set forth above. Furthermore, it is noted that while claim 32 discloses detecting a loading information file with information on the interactive file to be loaded, Bauer (column 7, lines 48-67) cited by the Examiner discloses an unrelated concept (i.e., detecting an event, such as a closing of a word processing application). Applicants note that the event detector disclosed by Bauer (which is in the context of determining whether a file has unsaved modifications) does not teach any and every act of detection, and thus does not disclose the detection of a specific type of file, as recited in claim 32.

Regarding the rejection of claim 33, it is noted that this claim depends from claim 32 and is, therefore, allowable for at least the reasons set forth above.

Regarding the rejection of claims 34-35, it is noted that these claims depend from claim 33 and are, therefore, allowable for at least the reasons set forth above.

Regarding the rejection of claim 36, it is noted that this claim depends from claim 35 and is, therefore, allowable for at least the reasons set forth above.

Regarding the rejection of claim 37, it is noted that this claim depends from claim 36 and is, therefore, allowable for at least the reasons set forth above.

Regarding the rejection of claim 38, it is noted that this claim depends from claim 37 and is, therefore, allowable for at least the reasons set forth above. Furthermore, Applicants note that a chat service is not an inherent feature of the Internet, particularly as the Internet preceded any chat service by many years. Therefore, it is respectfully requested that the Examiner provide a factual basis for the inherency assertion, or withdraw the rejection.

Regarding the rejection of claim 39, it is noted that this claim depends from claim 37 and is, therefore, allowable for at least the reasons set forth above. Furthermore, Applicants note that providing an Internet service using the interactive file is not an inherent feature of the Internet, particularly as the Internet preceded interactive files providing an Internet service, and interactive files preceded the Internet. Therefore, it is respectfully requested that the Examiner provide a factual basis for the inherency assertion, or withdraw the rejection. Furthermore, Bauer does disclose an interaction between a client and a server through the Internet. However, Bauer does not suggest providing an Internet service or accessing the Internet using an updateable interactive file, as does the invention recited in claim 41.

Regarding the rejection of claim 40, it is noted that this claim depends from claim 32 and is, therefore, allowable for at least the reasons set forth above. Furthermore, it is noted that while claim 40 discloses a detecting of an order of interactive files to be loaded, Bauer (column 7, lines 48-67) cited by the Examiner discloses an unrelated concept (i.e., detecting an event, such as a closing of a word processing application). Applicants note that the event detector disclosed by Bauer (which is in the context of determining whether a file has unsaved modifications) does not teach any and every act of detection, such as the detection of an order of files, as recited in claim 40.

Regarding the rejection of claim 41, it is noted that this claim depends from claim 24 and is, therefore, allowable for at least the reasons set forth above. Furthermore, it is noted that while claim 41 discloses a providing of a chat service, Bauer (column 9, line 34 and column 15, line 44) cited by the Examiner discloses an unrelated concept (i.e., resuming editing of a modified, unsaved file and loading the modification list from a storage). As such, Bauer does not suggest providing a chat service using an updateable interactive file, as does the invention recited in claim 41.

Regarding the rejection of claim 42, it is noted that this claim depends from claim 24 and is, therefore, allowable for at least the reasons set forth above. Furthermore, it is noted that

while claim 42 discloses a providing of an Internet service using the interactive file, Bauer (column 9, line 15) cited by the Examiner discloses accessing the Internet through a communication network. In particular, Bauer discloses an interaction between a client and a server through the Internet. However, Bauer does not suggest providing an Internet service or accessing the Internet using an updateable interactive file, as does the invention recited in claim 41.

Regarding the rejection of claim 43, it is noted that this claim depends from claim 24 and is, therefore, allowable for at least the reasons set forth above.

Regarding the rejection of claim 44, it is noted that this claim depends from claim 43 and is, therefore, allowable for at least the reasons set forth above.

Regarding the rejection of claim 45, it is noted that this claim depends from claim 24 and is, therefore, allowable for at least the reasons set forth above.

Regarding the rejection of claim 46, it is noted that this claim depends from claim 45 and is, therefore, allowable for at least the reasons set forth above.

Regarding the rejection of claims 47-48, it is noted that these claims depend from claim 24 and are, therefore, allowable for at least the reasons set forth above.

#### **REJECTIONS UNDER 35 U.S.C. §103:**

Claims 11-19 are rejected under 35 U.S.C. §103(a) as being unpatentable over Bauer et al. (U.S. Patent 7,137,072) in view of Hugh (U.S. Patent 6,166,739). The rejection is traversed and reconsideration is respectfully requested.

Regarding the rejection of independent claim 11, it is noted that claim 11 recites **"allocating** at least a portion of the ENAV buffer to be an updateable markup area provided for ENAV files **on the basis of ENAV buffer configuration information.**" In contrast, Bauer teaches a method of storing unsaved modifications to a data file in a buffer (column 14, lines 53-61). First, Applicants note that managing a buffer is patentably distinct from managing data files. Specifically, while the present claim discloses a designating of an area of the buffer for storage of files, Bauer describes a method of storing files that is unrelated to a management of the buffer (i.e., an allocation of areas in the buffer). Second, Bauer does not disclose any operation or process of allocating in the buffer. In particular, Bauer does not disclose an allocation of a



**specific area** of the buffer (i.e., an updateable markup area) for storing the modifications. Similarly, Bauer does not disclose an allocation of an area of the buffer based on buffer configuration information. Rather, Bauer only teaches a configuring of the buffer to store modifications to an unsaved data file (column 14, lines 53-61). Such configuration does not entail an area allocation based on buffer configuration information. Therefore, the Applicants respectfully submit that Bauer fails to disclose, implicitly or explicitly, a managing of a buffer whereby a portion of an ENAV buffer is allocated for ENAV files on the basis of ENAV buffer configuration information, as recited in claim 11. Since Hugh is not relied upon to cure such a deficiency, it is respectfully submitted that the combination does not disclose or suggest the invention of claim 11.

Regarding the rejection of claim 12, it is noted that this claim depends from claim 11 and is, therefore, allowable for at least the reasons set forth above. Furthermore, it is noted that claim 12 recites “allocating the updateable markup area according to **memory size information**.” The Examiner cites Bauer (column 17, line 2) as a teaching of such an allocation. However, Bauer (column 17, line 2) regards displaying a modification list in a subframe, as opposed to allocating an area of a buffer. Specifically, the “size specification” of Bauer is in reference to a size of the modification list and the subframe, and not the size of a memory. As noted above, Bauer does not disclose an allocation of an area in a buffer. Therefore, the Applicants respectfully submit that Bauer fails to disclose, implicitly or explicitly, an allocating of an area of a buffer according to memory size information, as recited in claim 12. Since Hugh is not relied upon to cure such a deficiency, it is respectfully submitted that the combination does not disclose or suggest the invention of claim 12.

Regarding the rejection of claim 13, it is noted that this claim depends from claim 11 and is, therefore, allowable for at least the reasons set forth above. Furthermore, it is noted that claim 13 recites “allocating the updateable markup area according to **memory names and sizes information**.” The Examiner cites Bauer (column 15, lines 7-12) as a teaching of such an allocation. However, Bauer (column 15, lines 7-12) regards listing identifiers of modified files in a modification list. The identifiers, however, are not used for an allocation of an area of a buffer. As noted above, Bauer does not disclose an allocation of an area in a buffer. Therefore, the Applicants respectfully submit that Bauer fails to disclose, implicitly or explicitly, an allocating of an area of a buffer according to memory names and sizes information, as recited in claim 13. Since Hugh is not relied upon to cure such a deficiency, it is respectfully submitted that the

combination does not disclose or suggest the invention of claim 13.

Regarding the rejection of claim 14, it is noted that this claim depends from claim 11 and is, therefore, allowable for at least the reasons set forth above. Furthermore, it is noted that while claim 14 discloses a loading of files **to be buffered** with reference to file names and locations, Bauer discloses an identifying of files that **are already buffered** with reference to the files' identifiers on a modification list (column 15, lines 7-12). As such, Bauer does not suggest loading files to be buffered, as does the invention recited in claim 14. Since Hugh is not relied upon to cure such a deficiency, it is respectfully submitted that the combination does not disclose or suggest the invention of claim 14.

Regarding the rejection of claims 15-16, it is noted that these claims depend from claim 11 and are, therefore, allowable for at least the reasons set forth above. Since Hugh is not relied upon to cure such a deficiency, it is respectfully submitted that the combination does not disclose or suggest the invention of claims 15-16.

Regarding the rejection of claim 17, it is noted that this claim depends from claim 11 and is, therefore, allowable for at least the reasons set forth above. Furthermore, it is noted that while claim 17 discloses a reading of ENAV buffer configuration information with reference to a startup file and loading information file, Bauer (column 14, lines 44-53 and column 13, lines 15-35) cited by the Examiner discloses an unrelated concept (i.e., an identifying of whether a file has unsaved modifications). As such, Bauer does not suggest reading the ENAV buffer configuration information from a file, as does the invention recited in claim 17. Since Hugh is not relied upon to cure such a deficiency, it is respectfully submitted that the combination does not disclose or suggest the invention of claim 17.

Regarding the rejection of claims 18-19, it is noted that these claims depend from claim 17 and are, therefore, allowable for at least the reasons set forth above. Since Hugh is not relied upon to cure such a deficiency, it is respectfully submitted that the combination does not disclose or suggest the invention of claim 18-19.

Based on the foregoing, this rejection is respectfully requested to be withdrawn.

#### **CONCLUSION:**

There being no further outstanding objections or rejections, it is submitted that the

application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

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